

June 13, 2001

Hon. Paul Schell
Mayor, City of Seattle
1200 Municipal Building
600 Fourth Avenue
Seattle, WA 98104

Hon. Margaret Pageler
President, Seattle City Council
1100 Municipal Building
600 Fourth Avenue
Seattle, WA 98104

**Re: Public-Private Partnership Panel
South Lake Union Report**

Mayor Schell and President Pageler:

The South Lake Union subpanel (the “Subpanel”) of the Public-Private Partnership Panel (“P4”) has considered the proposed sale of the South Lake Union (“SLU”) surplus properties by the City to City Investors, Inc. Consistent with President Pageler’s letter of May 17, 2001, City Council Resolutions 30072 and 30080, and the P4’s by-laws, the Subpanel submits the following report.

A. BACKGROUND AND SCOPE OF REVIEW

The Subpanel met four times over the past fifteen months. On March 31, 2000 and September 6, 2000, the City briefed the Subpanel on the City’s request for qualifications (the “RFQ”), proposals in response to the RFQ, and the P4 protocol documents relating to disposition of the SLU surplus properties. (The Subpanel did not participate in the development or issuance of the RFQ.) On May 18, 2001, the City briefed the Subpanel on the executed purchase and sale agreement (the “Agreement”) between the City and City Investors and a revised protocol document. On May 24, 2001, the Subpanel held its fourth and final meeting on the SLU sale at which the Subpanel questioned the City and took citizen comment. In response to the Subpanel’s questions and concerns, the City and City Investors amended the Agreement to make some clarifications and technical corrections and the City revised the SLU protocol document. Appendix A contains a more complete list of the documents reviewed by the Subpanel in the course of its review of the SLU sale, including written citizen comment. These documents and the minutes of the Subpanel’s meetings are available by contacting Sara Levin of the City Budget Office (206-684-8691).

B. DISCUSSION

Although Resolution 30080 designated the development and disposition of the SLU surplus properties as a Targeted Partnership subject to P4 review, the SLU project has few characteristics of a public-private partnership. The project is, at heart, a simple (albeit substantial) sale of real property with some elements that might loosely be characterized as a “partnership” (*e.g.*, the purchaser’s post-closing affordable housing, cultural use, and parking commitments and the parties’ commitment to jointly pursue a lawsuit relating to the clean-up of hazardous substances on parcel no. 14.)

Resolution 30080 sets forth fifteen “public objectives” that the City hoped to advance by disposing of the SLU property. We conclude that the Agreement is a prudent and valuable first step in accomplishing these public objectives. It is only a “first step” because many of the public objectives are best met through existing regulatory processes and the prudent investment of the sales proceeds. The City might have chosen to pursue more of the public objectives through a public-private partnership involving the SLU properties. However, we conclude that the City reasonably elected to optimize the monetary return for the surplus property and pursue many of the public benefits through the use of the sale proceeds.

President Pageler’s letter of May 17, 2001 requested the Subpanel’s feedback on five main questions. We now turn to those questions:

1. What Is the Subpanel’s View of the Overall Package?

The Subpanel’s view of the overall package is favorable. As directed by the Council in Resolution 30080, the Agreement will result in the redevelopment of the surplus properties in a manner that supports the South Lake Union Neighborhood Plan and is a valuable first step in achieving the public objectives set out in Resolution 30080. The Subpanel has some concerns about the sale, which we will outline below and bring to the Council’s attention.

2. Did the City Do a Good Job on Negotiating the Price?

The Subpanel was not involved in negotiating the price or other terms of the Agreement. However, judged by the resulting Agreement, it appears that the City did a good job negotiating the purchase price. The purchase price and the value of the other consideration flowing to the City meet or exceed the appraisal value received by the City. The Subpanel has some concerns that make a definitive evaluation of the purchase price difficult. None of these concerns suggest that the City did not make a strong deal, they are simply areas that we draw to your attention.

The Subpanel notes that the City’s appraisals were performed in April 2000. (Appraisals for Parcels 14 – 17 were revised downward in August 2000 to reflect additional information about the soil conditions). The City and its real estate consultant advised the Subpanel that the City’s

reliance on appraisals performed in April 2000 was reasonable because market conditions have been flat. The Subpanel has no independent basis to accept or reject this conclusion.

We also observe that the appraised value may not reflect some of the unusual characteristics of this transaction. First, this transaction is unusual because the seller intends to reinvest a large portion of the sale proceeds into improvements that stand to greatly benefit the subject properties. The properties will also greatly benefit from unrelated City investments (*e.g.*, SLU Park) that may not be adequately reflected in the appraisals. This is not to say that the purchaser will be the only beneficiary of the City's investments, only that the improvements will likely increase the value of the subject properties.

Second, the Subpanel notes that the appraisal does not consider the real estate excise tax benefit that results from the fact that the properties are owned by the City rather than a private party. Because City Investors is purchasing land from the City, the transaction will be exempt from real estate excise tax (normally, 1.78% of the purchase price, formally imposed on the seller, but directly or indirectly paid by the purchaser). Neither the appraiser nor the City in negotiating the price considered the approximately \$370,000 benefit that comes from the fact that the City is the owner of the property.

The Subpanel also notes that the City is receiving valuable consideration in the form of promises by City Investors relating to affordable housing, cultural use, and parking. These promises have value to the City (and are costs to City Investors). The Chair has concerns, not shared by all panelists, that the value of these commitments was not quantified by the City. The Chair believes that it is misleading to refer to such commitments as "in addition to providing full market value." These commitments—or their pecuniary value—are part of, not in addition to, full market value. The failure to quantify the value or cost of the commitment makes it difficult to evaluate whether the City might have been better off seeking a higher purchase price and using the additional proceeds to independently meet its affordable housing, cultural use, and parking objectives. In the end, the City represented that it could not have extracted a higher purchase price in exchange for reducing or eliminating the post-closing housing, cultural use and parking conditions. While the Chair is skeptical, we note that it is very difficult for someone outside the negotiating process to fairly second-guess what could or could not have been achieved. In light of the City's appraisal, it appears that, whatever the value of the post-closing commitments, the City achieved a fair price.

3. Did the City Adequately Address, Or Does It Have a Credible Plan to Address, the Public Objectives Listed in Resolution 30080?

Yes. The Subpanel concludes that the City has adequately addressed or has a credible plan to address the public objectives listed in Resolution 30080. As noted above, the Agreement is an inappropriate vehicle for achieving many of the public objectives outlined in Resolution 30080. We conclude that the combination of the Agreement, the City's use of the sales proceeds, other City projects, and normal regulatory processes will achieve the public objectives outlined in the Resolution.

The Agreement directly addresses several objectives: optimizing monetary return, promoting the comprehensive plan, catalyzing economic development, providing parking, and discouraging surface parking lots. It also makes some effort to address the City's objectives relating to cultural use and public art, affordable housing, and family wage jobs. The other public objectives will (or should be) adequately addressed through regulatory processes (*e.g.*, high quality development, gateway, pedestrian environment, visual relationships, open space, site design) and the investment of the sales proceeds (*e.g.*, alternative transportation, affordable housing). *See* P4 Protocol (June 1, 2001).

We also commend the City's work with the SLU neighborhood on the sale and redevelopment of the surplus properties. The sale and redevelopment of the surplus properties are a major goal of the neighborhood (in addition to the SLU Park). The Subpanel heard praise for the City's team and significant support for the sale from the South Lake Union Planning Committee.

4. Are the Timelines for Permitting and Constructing Improvements Aggressive, Yet Realistic?

Yes. The Subpanel concludes that the timelines for permitting and constructing improvements are aggressive and realistic.

5. Does This Package Adequately Balance Risks to the City with Returns?

Yes. The Subpanel concludes the package adequately balances the risks to the City with returns. As described above, the purchase price and consideration appear to be fair. The Agreement also adequately and creatively protects the City from environmental liability relating to the subject properties.

We also note that the costs of doing nothing are significant. The City owns valuable real property that is currently generating shockingly little return—either economic or otherwise. The status quo represents a serious misuse of City resources. We endorse the City's efforts to dispose of the surplus properties and productively reinvest the proceeds.

Respectfully Submitted,

Bob Mahon, Chair
Jan Hendrickson
Dinah Thoreson

cc: Seattle City Council Members
Mary Jean Ryan, Office of Economic Development
Sara Levin, City Budget Office

APPENDIX A

In the course of its review of the SLU sale, the Subpanel reviewed the following documents:

- Seattle City Council Resolution No. 30080 (December 13, 1999).
- Executive Services Department, Request for Qualifications for Disposal and Redevelopment of Surplus City Properties in the South Lake Union Area.
- Vulcan Northwest Inc., Proposal for Acquisition and Redevelopment of Surplus City Properties in the South Lake Union Area.
- Letter from Olaf Kvamme, Nordic Heritage Museum, to Karen Tsao, Executive Services Department (February 17, 2000) (with enclosures).
- Letter from Sharon Lee, Low Income Housing Institute, to Karen Tsao, Executive Services Department (February 22, 2000) (regarding South Lake Union parcels for affordable housing).
- Letter from Phil Sullivan, YouthCare, to Karen Tsao, Executive Services Department (February 22, 2000) (regarding letter of interest regarding parcel 11 in the South Lake Union area).
- Letter from James Ferris, Housing Resources Group, and Paul Lambros, Plymouth Resources Group, to Karen Tsao, Executive Services Department (February 22, 2000) (regarding South Lake Union redevelopment RFQ) (with enclosures).
- E-mail from Mike Lewis, Hoy Management & Investment, Inc., to Karen Tsao, Executive Services Department (February 22, 2000) (regarding RFQ for South Lake Union parcels).
- Letter from Karen Tsao, Executive Services Department, to Olaf Kvamme, Nordic Heritage Museum, and Jan Brekke, Brekke Properties (March 3, 2000).
- Letter from Karen Tsao, Executive Services Department, to Leslie Lloyd, Vulcan Northwest, and Kevin Teague, Foster Pepper & Shefelman (March 3, 2000).
- Letter from Karen Tsao, Executive Services Department, to Mike Lewis, Hoy Management & Investment, Inc. (March 13, 2000).
- Letter from Larry Martin, Vulcan Northwest, to Karen Tsao, Executive Services Department, (March 15, 2000) (regarding supplemental information to the South Lake Union redevelopment request for qualifications response document) (with enclosures).

- Letter from Olaf Kvamme, Nordic Heritage Museum, to Karen Tsao, Executive Services Department (March 17, 2000) (with enclosures).
- Public-Private Partnership Protocol (March 23, 2000).
- Memorandum from Developer Selection Committee to South Lake Union Oversight Committee (April 26, 2000) (regarding South Lake Union redevelopment selection committee evaluation, conclusions, and recommendations).
- Letter from Nathan Torgelson, Office of Economic Development (April 28, 2000).
- Public-Private Partnership Protocol (August 20, 2000).
- Memorandum from Geri Beardsley, Legislative Department, to Finance, Budget and Economic Development Committee (September 5, 2000) (regarding Council Bill 113320 -- South Lake Union text amendment).
- Handout, South Lake Union Text Amendment – Issues for Committee Discussion.
- E-mail from Nick Licata, City Council, to Sara Levin, Budget Office (October 24, 2000).
- Seattle Design Commission, Minutes (October 26, 2000).
- E-mail from Irene Wall to Sara Levin, Budget Office (December 8, 2000) (regarding SLU clarifications).
- Letter from Mary Jean Ryan, Office of Economic Development, to Bob Mahon, Perkins Coie (January 29, 2001).
- Seattle Design Commission, Minutes of April 19, 2001 Meeting.
- Letter from Margaret Pageler, City Council, to Bob Mahon, Perkins Coie (May 17, 2001) (regarding South Lake Union City property redevelopment).
- Seattle Appraisal Services, Appraisal Summary (May 17, 2001).
- Purchase and Sale Agreement (May 2001) (with exhibits).
- Public-Private Partnership Protocol (May 18, 2001).
- Handout, City of Seattle / City Investors South Lake Union Property Transaction, Projected Timeline.

- Handout, How Are Public Objectives Achieved?
- Memorandum from South Lake Union Planning Committee to Public Private Partnership Panel (May 24, 2001) (regarding South Lake Union City property conditioned sale).
- Memorandum from Mary Jean Ryan to South Lake Union P4 Panel (June 1, 2001) (regarding South Lake Union P4 review).
- Public-Private Partnership Protocol (June 1, 2001).
- Purchase and Sale Agreement (with technical corrections as of June 1, 2001)
- Memorandum from C-LUPA and Shirley Mesher to Robert Mahon, P4 (June 10, 2001) (regarding questions and commentary on purchase and sale agreement for South Lake Union properties).
- Maps